

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

765.28 Default in recognizance; record; notice; summary judgment; execution; set aside of forfeiture order; discharge of bail or surety bond; conditions.

Sec. 28. (1) If default is made in any recognizance in a court of record, the default shall be entered on the record by the clerk of the court. After the default is entered, the court shall give each surety immediate notice not to exceed 7 days after the date of the failure to appear. The notice shall be served upon each surety in person or left at the surety's last known business address. Each surety shall be given an opportunity to appear before the court on a day certain and show cause why judgment should not be entered against the surety for the full amount of the bail or surety bond. If good cause is not shown for the defendant's failure to appear, the court shall enter judgment against the surety on the recognizance for an amount determined appropriate by the court but not more than the full amount of the bail, or if a surety bond has been posted the full amount of the surety bond. If the amount of a forfeited surety bond is less than the full amount of the bail, the defendant shall continue to be liable to the court for the difference, unless otherwise ordered by the court. Execution shall be awarded and executed upon the judgment in the manner provided for in personal actions.

(2) Except as provided in subsection (3), the court shall set aside the forfeiture and discharge the bail or surety bond within 1 year from the date of forfeiture judgment if the defendant has been apprehended, the ends of justice have not been thwarted, and the county has been repaid its costs for apprehending the person. If the bond or bail is discharged, the court shall enter an order to that effect with a statement of the amount to be returned to the surety.

(3) Subsection (2) does not apply if the defendant was apprehended more than 56 days after the bail or bond was ordered forfeited and judgment entered and the surety did not fully pay the forfeiture judgment within that 56-day period.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17190;—CL 1948, 765.28;—Am. 2002, Act 659, Eff. Apr. 1, 2003;—Am. 2004, Act 332, Imd. Eff. Sept. 23, 2004.